

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ELIZABETH A. MCNEILL,

Plaintiff,

v.

No.05-2727-B/A

THE TRAVELERS INSURANCE COMPANY
and CNL ROSE ACQUISITION CORPORATION,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING ORDER AND DEFENDANT' MOTION TO DISMISS**

The Plaintiff, Elizabeth McNeill, has instituted this lawsuit for preliminary and permanent injunction, compensatory, consequential and punitive damages for fraud on the court, conspiracy to violate civil rights and other causes against the Defendants, The Travelers Insurance Company ("Travelers") and CNL Rose Acquisition Corporation ("CNL"). Travelers has filed a motion to dismiss to which the Plaintiff has responded. Since the initiation of this case, a companion lawsuit has also been filed. The parties have advised the Court that the claims against the Defendant, CNL, have been settled. In addition, the parties, since the first part of 2006, have indicated that they intend to mediate the remaining claims against Travelers, however, to-date, according to information provided to the Court, no such mediation has been undertaken.

Because the request for a temporary restraining order and the motion to dismiss have been pending without resolution and because the parties may very well resolve the remaining differences, the Court at this time will DENY WITHOUT PREJUDICE the Plaintiff's motion for temporary restraining order [docket entry No. 2] and DENY WITHOUT PREJUDICE Defendant's motion to dismiss [docket entry No. 12], subject to both being reinstated upon appropriate notice by the Plaintiff and/or the Defendant, if the remaining issues in this matter are not resolved. It is the Court's understanding that mediation is to take place the first week of November and, therefore, the

parties are directed to advise the Court no later than November 15, 2006 as to the status of the case following that mediation.

IT IS SO ORDERED this 27th day of September, 2006.

s/ J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE